IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

Crl.MC.No. 1171 of 2007()

CC.22/2007 of CHIEF JUDICIAL MAGISTRATE, KASARAGOD

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PETITIONER: ACCUSED

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1. ABOOBACKER, S/O.LATE AHAMMED, NAJMA VILLA, THAYAL MOUVAL, PALLIKKARA, KASARAGODE.

2. ASHRAF, S/O.LATE AHAMED, -DO-

3. FARZANA, W/O.ASHRAF, RESIDING -DO-

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: COMPLAINANT & STATE

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1. SUMAYA, W/O.ABOOBACKER, D/O.SUBAIR, KHADEEJA MANZIL, KUTTIYALA, KODIAMMA P.O. 'KUMBALA, KASARAGOD TALUK.

2. STATE REP; BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

R2 BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 1171 of 2007

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Dated this the 24th day of May, 2007

O R D E R

The petitioners are the husband, brother-in-law and sister-in-law respectively of the first respondent. Cognizance has been taken of the offences publishable under Sections 406 and 498A r/w. 34 I.P.C. against the petitioners. Crime was registered on the basis of the F.I. statement lodged of the first respondent herein. Cognizance has been taken on the basis of the final report submitted by the police after due investigation.

2. During the pendency of the proceedings before the court below, the parties have settled their disputes in the Lok Adalath conducted by the District Legal Services Authority. Annex.II settlement has been reached by the parties. The marital tie has been dissolved and amounts due to the first respondent have been paid. It is in these circumstances that the petitioners have come before this Court with this petition under Section 482 Cr.P.C. to quash the proceedings initiated against them.

3. The first respondent has entered appearance through counsel. She along with the petitioners has filed a joint application

for composition. From the averments in the Crl.M.C. as also the joint application for composition and the submissions made at the Bar on behalf of the rival contestants, I am satisfied that the matter has been settled voluntarily and amicably by the parties. The learned counsel for the first respondent vouches for the signature of the first respondent in the application for composition. I am satisfied that there has been a willing and voluntary composition and if legally permissible the composition can be accepted.

4. The offence under Section 498A I.P.C. is not legally compoundable and the composition cannot be accepted under Section 320 Cr.P.C. But the learned counsel for the petitioners relies on the decision in **B.S. Joshi** v. **State of Haryana** (AIR 2003 SC 1386). The said decision is authority for the proposition that at times the interests of justice may transcend the interests of mere law and in such circumstances the provisions of Section 320 Cr.P.C. cannot be reckoned as a fetter on the sweeping powers of the Court under Section 482 Cr.P.C. to act in aid of justice. So reckoned, I am satisfied in the facts and circumstances that this is an eminently fit case where powers under Section 482 Cr.P.C. can be invoked

and the prosecution against the petitioners can be brought to premature termination to advance the interests of harmony and justice.

5. This Crl.M.C. is hence allowed. C.C. No. 22 of 2007 pending before the Chief Judicial Magistrate Court, Kasaragod against all the three petitioners/accused is hereby quashed.

(R. BASANT)
Judge

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